

**REMARKS**

Claims 1-27 are currently pending in the application. Claims 1, 10, and 19 have been amended. Applicant respectfully submits that no new matter has been added. Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and the following remarks.

Claims 1, 4, 7-10, 13, 16-19, 22, and 25-27 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,498,785 to Derryberry et al. (“Derryberry”). Applicant respectfully submits that Derryberry fails to teach or suggest at least one of the distinguishing features of independent claim 1, namely, transmitting at least one second access channel probe for a second message from a mobile station to a base station, a transmission power level of an initial access channel probe of the at least one second access channel probe for the second message being based upon a first transmission power level stored in the mobile station. In addition, Derryberry fails to disclose that the first transmission power level corresponds to a power level at which the base station acknowledgement is received for the at least one first access channel probe.

Derryberry appears to relate to a method and an apparatus for power control on a first channel that is shared by multiple mobile stations transmitting to base stations in a telecommunication system. A control processor generates appropriate control signals to transmit an initial access probe to a base station. The access probe is transmitted as an access probe at successively higher power until base station acknowledges receipt of the access probe. The searcher/receiver of the base station detects a preamble of the access probe and measures a received power and transfers the measurement results to the control processor of the base station. Based on the received power, the base station calculates a power value. The power value indicates a ratio of an energy per bit, (Eb) to an effective noise power spectral density (Nt).

The power value is compared to a predetermined threshold power value in the base station. If it is determined that the power value is less than the threshold power value, the control processor within the base station generates a power control command that includes a parameter set to a value that instructs the mobile station to increase a total transmit power. However, if it is determined that the power value is greater than the threshold power value, the

control processor within the base station generates a power control command that includes a parameter set to a value that instructs the mobile station to decrease a total transmit power. Thus, the control processor within the base station generates a power control command that indicates a direction, up or down, of an incremental change in transmission power to be made at the mobile station to move the transmission power in a desired direction.

There is no teaching or suggestion in Derryberry of transmitting at least one second access channel probe for a second message from a mobile station to a base station, a transmission power level of an initial access channel probe of the at least one second access channel probe for the second message being based upon a first transmission power level stored in the mobile station. In Derryberry, a control processor within a base station generates a power control command that indicates a direction, up or down, of an incremental change in transmission power to be made at the mobile station to move the transmission power in a desired direction.

In contrast to Derryberry, in claim 1, a transmission power level of an initial access channel probe of the at least one second access channel probe for a second message is based upon a first transmission power level stored in a mobile station, wherein the first transmission power level corresponds to a power level at which the base station acknowledgement is received for the at least one first access channel probe. Applicant respectfully submits that claim 1 distinguishes over Derryberry and is in condition for allowance. Withdrawal of the rejection of claim 1 as anticipated by Derryberry is respectfully requested.

Dependent claims 4 and 7-9 depend from and further restrict independent claim 1 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claim 1, dependent claims 4 and 7-9 distinguish over Derryberry and are in condition for allowance. Withdrawal of the rejection of dependent claims 4 and 7-9 is respectfully requested.

Independent claim 10 relates to an apparatus for improving open loop power control in a spread spectrum telecommunications systems. Applicant respectfully submits that Derryberry fails to teach or suggest at least one of the distinguishing features of independent claim 10, namely, at least one processor for determining a second transmission power level of an

initial access channel probe of at least one second access channel probe for a second message to be transmitted from a mobile station to a base station, the second transmission power level of the initial access channel probe of the at least one second access channel probe for the second message being determined based upon a first transmission power level stored in the mobile station. In addition, Derryberry fails to disclose that the first transmission power level corresponds to a power level at which the base station acknowledgement is received for the at least one first access channel probe.

In Derryberry, a control processor within a base station generates a power control command that indicates a direction, up or down, of an incremental change in transmission power to be made at a mobile station to move a transmission power in a desired direction. In Derryberry, the transmission power level is based upon a power control command transmitted from the base station to the mobile station and not a first transmission power level stored in the mobile station, wherein the first transmission power level corresponds to a power level at which the base station acknowledgement is received for the at least one first access channel probe as claimed. Applicant respectfully submits that claim 10 distinguishes over Derryberry and is in condition for allowance. Withdrawal of the rejection of claim 10 as anticipated by Derryberry is respectfully requested.

Dependent claims 13 and 16-18 depend from and further restrict independent claim 10 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claim 10, dependent claims 13 and 16-18 distinguish over Derryberry and are in condition for allowance. Withdrawal of the rejection of dependent claims 12 and 16-18 is respectfully requested.

Independent claim 19 relates to an article of manufacture for improving open loop power control in a spread spectrum telecommunications systems. Applicant respectfully submits that Derryberry fails to teach or suggest at least one of the distinguishing features of independent claim 19, namely, storing a first transmission power level at a mobile station and transmitting at least one second access channel probe for a second message from the mobile station to a base station, a transmission power level of an initial access channel probe of the at least one second access channel probe for the second message being based upon the first transmission power level stored in the mobile station. In addition, Derryberry fails to disclose that the first transmission

power level corresponds to a power level at which the base station acknowledgement is received for the at least one first access channel probe.

In Derryberry, a control processor within a base station generates a power control command that indicates a direction, up or down, of an incremental change in transmission power to be made at a mobile station to move a transmission power in a desired direction. In Derryberry, the transmission power level is based upon a power control command transmitted from the base station to the mobile station and not a first transmission power level stored in the mobile station, wherein the first transmission power level corresponds to a power level at which the base station acknowledgement is received for the at least one first access channel probe as claimed. Applicant respectfully submits that claim 18 distinguishes over Derryberry and is in condition for allowance. Withdrawal of the rejection of claim 18 as anticipated by Derryberry is respectfully requested.

Dependent claims 22 and 25-27 depend from and further restrict independent claim 19 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claim 19, dependent claims 22 and 25-27 distinguish over Derryberry and are in condition for allowance. Withdrawal of the rejection of dependent claims 22 and 25-27 is respectfully requested.

Claims 2-3, 5-6, 11-12, 14-15, 20-21, and 23-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Derryberry in view of U.S. Patent No. 5,265,119 to Gilhousen et al. (“Gilhousen”). Claims 2-3 and 5-6 depend from and further restrict independent claim 1 and therefore also distinguish over Derryberry. In rejecting claim 2-3 and 5-6, the Examiner has further applied Gilhousen. Applicant respectfully submits that Gilhousen fails to cure the deficiencies of Derryberry noted above with respect to independent claim 1. Applicant respectfully submits that dependent claims 2-3 and 5-6 distinguish over the cited combination of Derryberry and Gilhousen and respectfully requests that the rejection thereof be withdrawn.

Claims 11-12 and 14-15 depend from and further restrict independent claim 10 and therefore also distinguish over Derryberry. In rejecting claim 11-12 and 14-15, the Examiner has further applied Gilhousen. Applicant respectfully submits that Gilhousen fails to cure the deficiencies of Derryberry noted above with respect to independent claim 10. Applicant

respectfully submits that dependent claims 11-12 and 14-15 distinguish over the cited combination of Derryberry and Gilhousen and respectfully requests that the rejection thereof be withdrawn.

Claims 20-21 and 23-24 depend from and further restrict independent claim 19 and therefore also distinguish over Derryberry. In rejecting claim 20-21 and 23-24, the Examiner has further applied Gilhousen. Applicant respectfully submits that Gilhousen fails to cure the deficiencies of Derryberry noted above with respect to independent claim 10. Applicant respectfully submits that dependent claims 20-21 and 23-24 distinguish over the cited combination of Derryberry and Gilhousen and respectfully requests that the rejection thereof be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: Feb. 17, 2005

Respectfully submitted,

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